

MAURICE PATRICK,)	No. 2:12-cv-00702-RSM
)	
Plaintiff,)	ORDER GRANTING MOTION TO
)	DISMISS PLAINTIFF’S CLAIMS
v.)	FOR LACK OF SUBJECT MATTER
)	JURISDICTION
EMC MARKET OPINION AND)	
RESEARCH SERVICES, INC.,)	
)	
Defendant.)	

This Court has considered Defendant’s motion to dismiss Plaintiff’s claims for lack of jurisdiction pursuant to Fed.R.Civ.P. 12(b)(1). *See* Dkt. #18. Plaintiff asserts subject matter jurisdiction pursuant to 28 U.S.C. § 1332. *See* Dkt. #7. 28 U.S.C. § 1332(a)(1) confers upon federal courts jurisdiction over “civil actions where the matter in controversy exceeds the sum or value of \$10,000 . . . and is between . . . citizens of different States.” For the exercise of subject matter jurisdiction to be proper in a diversity case, no plaintiff can be a citizen of the same state as any defendant. *Owen Equipment & Erection Co. v. Kroger*, 437 U.S. 365, 373 (1978). Diversity is determined as of the time the complaint was filed, *Mann v. City of Tuscon*, 782 F.2d 790, 794 (9th Cir. 1986), and the burden of proving jurisdictional facts is on the party

1 asserting jurisdiction, *McNutt v. General Motors Acceptance Corp.*, 298 U.S. 178, 182; *Fenton*
2 *v. Freedman*, 748 F.2d 1358, 1359 n. 1 (9th Cir. 1984). The diversity statute is construed
3 strictly and doubts are resolved against finding jurisdiction. *Kantor v. Wellesley Galleries, Ltd.*,
4 704 F.2d 1088, 1092 (9th Cir. 1983).

5 Plaintiff asserts that he is a citizen of Washington. *See* Dkt. #1, Ex. 3. Defendant, a
6 corporation, is also a citizen of Washington. *See* Dkt. #19. *See also* 28 U.S.C. § 1332(c)(1);
7 *Industrial Tectonics Inc. v. Aero Alloy*, 912 F.2d 1090, 1092 (9th Cir.1990) (holding that a
8 corporation is a citizen of the state in which it is incorporated and of the state in which it has its
9 principal place of business). Because the parties are not diverse, this court lacks subject matter
10 jurisdiction.
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12 Now, therefore, it is hereby
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14 ORDERED that all claims of Plaintiff, Maurice Patrick are dismissed in their entirety.

15 DONE this 7 day of August 2012.
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18 RICARDO S. MARTINEZ
19 UNITED STATES DISTRICT JUDGE
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